

## REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-4, 6-14 and 16-21 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

## ALLOWABLE SUBJECT MATTER

It is gratefully acknowledged that the Examiner considers the subject matter of claims 10, 20 and 21 as being allowable if rewritten in independent form. As the Examiner will note, claims 1 and 11 have been amended to set forth a combination of elements that clearly define patentable subject matter over the prior art cited in the Examiner's Office action. It is respectfully submitted that all of the claims of the present application are now in condition for allowance. If the Examiner does not agree that the present application is in condition for allowance, Applicants reserve the right to submit claims 10, 20 and 21 in independent form at a later date.

## OBJECTION TO THE DRAWINGS

The Examiner has objected to the drawings for not illustrating a few features as set forth in the claims as identified by the Examiner on pages 2-5 of her office action. As the Examiner will note, the drawings have been amended to incorporate the Examiner's helpful suggestions. A vehicle is illustrated in Fig. 7 to be adjacent to the loading dock with the leveler lip being disposed within the clearance space 18 when the vehicle is full. A bottom

draft plug 40 is illustrated in Figs. 7 and 8 to be displaced to permit debris to be removed from the clearance space 18. Fig. 7 illustrates the lower leveler lip 134B engaging the plug 40 to push the plug 40 downwardly to permit debris to be removed. A first elastic cord 152 and a second elastic cord 154 are illustrated in Fig. 2 and are discussed in paragraph [0030] on page 6 of the specification. No additional illustration with respect to the first and second elastic cords 152 and 154 are needed. In addition, Figs. 2, 5 and 6 have been amended to include the reference numerals as requested by the Examiner. With respect to Fig. 4, the relationship of the leveler and the bottom pad assembly 10 is now illustrated in Fig. 7. No new matter has been added to the present application in view of the fact that the wording as set forth in the specification and claims as originally filed has merely been pictorially illustrated in the drawings. The Examiner is respectfully requested to enter the amendments to the specification and drawings into the official file. As requested by the Examiner substitute sheets setting forth the corrected drawings are attached hereto. The drawings comply with the requirements of the USPTO. No further action is necessary.

#### REJECTION UNDER 35 USC 112

Claims 1-4, 6-14 and 16-21 stand rejected under 35 USC 112 for being indefinite. This rejection is respectfully traversed.

As the Examiner will note, the claims have been amended to set forth a bottom pad and a leveler assembly. In addition, proper antecedent basis has been added to the claims as requested by the Examiner. The Examiner's objection has been obviated.

### REJECTION UNDER 35 USC 103

Claims 1-3, 6-9, 11-13 and 16-19 stand rejected under 35 USC 103 as being unpatentable over by Layne, US 4,349,992 in view of Alexander, US 6,405,397. Claims 4 and 14 stand rejected under 35 USC 103 as being unpatentable over Layne '992 in view of Alexander '397 and further in view of Ashelin et al, US Patent Application Publication No. 2002/0152562. These rejections are respectfully traversed.

As set forth in the Examiner's rejections, the Layne patent fails to disclose a leveler lip that is pivotally mounted relative to the ramp portion on a distal end of the thereof. The Examiner relied on the Alexander '397 patent for apparently disclosing a dock leveler with a leveler lip that is pivotally mounted relative to the ramp portion.

It is respectfully submitted that the proposed modification of the Layne patent in view of the Alexander '397 patent would render inoperative the bumper seal 10 disclosed in the Layne patent. More specifically, as illustrated in Fig. 2 of the Layne patent, the bumper seal 10 extends along the width of the truck T and is disposed to engage the truck T. The bumper seal 10 is designed to span between the bumper blocks 11.

In the Alexander '397 patent, the leveler lip 45 is disposed to be in the space between the bumpers 40. By modifying the Layne patent to include a leveler with a leveler lip 45 as disclosed by Alexander '397 would destroy the teaching of the bumper seal 10 that forms part of the invention of the Layne patent.

In addition, the Layne patent is directed to a bumper seal 10 that is designed to work with a dock plate 20 with a fixed retaining lug 26 or a plurality of retaining lugs 26 spaced

transversely relative to the dock plate 20. The lug 26 is designed to be positioned within the slot 25, when the dock plate 20 is properly positioned, to prevent lateral movement of the dock plate 20. One with ordinary skill in this art would not modify the Layne patent in view of the Alexander '397 patent as suggested by the Examiner.

In contradistinction thereto, the present invention sets forth a combination of elements wherein a leveler includes a leveler lip that is pivotally mounted on the leveler for facilitating the loading and unloading of a vehicle when a vehicle is parked adjacent to a loading dock. The leveler includes a ramp portion and a leveler lip pivotally mounted relative to the ramp portion on a distal end thereof for extending into a vehicle. The leveler lip of the leveler may be pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle.

With regard to claims 4 and 14, the Examiner acknowledges that neither the Layne nor the Alexander '397 patent disclose a draft plug within a clearance space. It is respectfully pointed out that neither the Layne nor the Alexander '397 patents disclose such a clearance space that would require a draft plug. The Examiner further relied on the Ashelin patent for a teaching of a bottom draft plug 94.

It is respectfully submitted that one of ordinary skill in this art would not modify the Layne patent to include a bottom draft plug as suggested by the Examiner. The Layne patent does not address the problem of debris in the clearance space that is solved by the bottom

draft plug of the present invention. It is respectfully submitted that the Examiner's rejections based on 35 USC 103 have been obviated.

#### NO PROSECUTION HISTORY ESTOPPEL

The claims have been amended to clarify the subject matter of the present invention in view of the Examiner's rejection based on 35 USC 112. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1 and 11 and the claims that depend therefrom in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

#### REQUEST FOR INTERVIEW

If the Examiner has any questions with regard to this application, he/she is respectfully requested to contact the undersigned at (703) 205-8000 so that an interview can be arranged in connection with this application.

#### CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

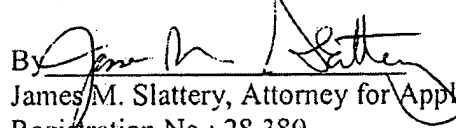
A prompt and favorable consideration of this Amendment is respectfully requested.

Pursuant to the provisions of 37 CFR 1.17 and 1.136(a), Applicants respectfully petitions for a three (3) month extension of time for filing a response in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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